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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,237	02/12/2002	Frederick J. Hudson	01-40451-US	6231

7590 03/07/2005

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EXAMINER

BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,237

Applicant(s)

HUDSON, FREDERICK J.

Examiner

Igor Borissov

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/2004 has been entered.

### ***Response to Amendment***

Amendment received on 11/19/2004 is acknowledged and entered. Claim 14 has been amended. Claims 1-19 are currently pending in the application.

### ***Claim Objections***

Claim 14 is objected to because of the following informalities:

Claim 14 (page 6, line 7) appears to contain a misspelled phrase: "...scanning the at least one least one tertiary receiving station...".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-7, 11-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Cowe et al. (US 5,671,362) (Cowe).**

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Cowe teaches an inventory monitoring method and system, comprising:

**As per claims 1 and 15,**

coordinating of at least one portion of the materials management system at a remote operation center (column 11, line 48 – column 12, line 3; column 26, lines 40-46);

externally transmitting at least one attribute to the remote operation center from at least one receiving station (column 7, line 61 – column 8, line 5);

receiving the at least one attribute of at least one material flow item in the at least one portion of the materials management system at the remote operation center (column 11, line 48 – column 12, line 3; column 26, lines 40-46);

updating the at least one attribute to at least one updated attribute at the remote operation center (column 21, lines 30-46);

externally transmitting the at least one update attribute from the remote operation center to the at least one receiving station (column 21, lines 30-46);

reconciling the at least one attribute and the at least one updated attribute (column 21, lines 30-46).

**As per claim 2,** said method and system, wherein the remote operation center is accessible from any communicative connection with the external interconnection (column 7, line 61 – column 8, line 5).

**As per claim 3,** said method and system, wherein the at least one attribute and the at least one updated attribute comprise at least one selected from the group consisting of a specific location, color, shape, size, addressee, status, a signatures record, present location, desired delivery destination, contents, and weight (column 7, line 61 – column 8, line 5).

**As per claims 4-6,** said method and system, wherein the copy link provides a link from the remote operation center to real-time operations at least one of the receiving stations (column 5, lines 27-45).

**As per claim 7,** said method and system, wherein the at least one receiving station comprises an infrared scanner communicatively connected to a programmable electronic device (column 7, line 61 – column 8, line 5).

**As per claim 11**, said method and system, wherein at least one receiving station comprises a barcode printer (column 9, line 65 – column 10, line 2).

**As per claim 12**, said method and system, wherein at least one updated attribute comprises previous ones of the receiving stations through which the at least one material flow item has passed (column 21, lines 30-46).

**As per claim 13**, said system, including receiving stations (shelves). Language as to *final* does not recite any structural limitation, and therefore given no patentable weight. MPEP 2106 (II) (C) states: "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation."

**As per claim 16**, Cove et al. teach all the limitations of claim 16, including:  
receiving the at least one updated attribute at an at least one local receiving station (column 9, line 65 – column 10, line 2; column 10, lines 18-21);

transmitting an at least one local attribute, from the at least one local receiving station, to a remote operation center (column 9, lines 60-65);

wherein the at least one updated attribute, and the at least one local attribute at the local receiving station, and a receipt of the transmitted at least one local attribute at the remote operation center, are reviewable at the at least one local receiving station (Fig. 4; column 11, lines 37-39; 55-61).

**As per claims 17-19**, said method and system, further comprising controlling the material flow of the controlled material at said at least one receiving station in accordance with the at least one modified attribute and the at least one updated attribute (column 11, line 62 – column 12, line 3).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 14 and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (US 6,563,417).**

**As per claim 14,** Shaw teaches method for identification and monitoring of, and obtaining data relating to products moving along a distribution path between distinct geographic locations (Fig. 3), wherein goods (items) are received and packaged at the producer station A (first local receiving station), then delivered via first transport B to a primary distributor C (secondary receiving station) where the palletized goods are stored; then the goods are shipped via second transport D to a secondary distributor E (tertiary receiving station) where the palletized goods are again stored; and finally, the goods are shipped via third transport F to a retailer G (final or tertiary receiving station) (C. 5, L. 30-37). At each station said goods are scanned (via an RFID tag attached to said goods for the duration of the distribution path) for tracking said goods and obtaining and updating attribute information (C. 5, L. 37-59), said information is communicated from each station to a central processor to provide up-to-date and unique data regarding said goods to said central controller and receive feed-back information from said central controller (C. 3, L. 22-35).

**As per claim 16,** Shaw teaches said method, wherein goods (items) are monitored during moving along a distribution path between distinct geographic locations (Fig. 3), wherein at each station attributes are obtained, updated and transmitted to a remote central processor, said attributes including a local attribute (temperature) and updated attribute (time based log), and wherein feed-back information is received from said central controller (C. 3, L. 22-35). (C. 5, L. 37-59). Language as to “...*wherein the at least one updated attribute, and the at least one local attribute at the local receiving station, and a receipt of the transmitted at least one local attribute at the remote operation center, are substantially simultaneously reviewable at the at least one local receiving station*” is not directed to a method step, and, therefore is given no patentable weight. MPEP 2106 (II) (C) states: “Language that *suggests or makes optional but does*

*not require steps to be performed* or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.”

**As per claims 17-19, see reasoning applied to claims 16 and 14.**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cove in view of Markham et al. (US 2003/0158795) (Markham).**

**As per claims 8-10, Cove teaches all the limitations of claims 8-10, except that the programmable device is a PDA.**

Markham teaches a system for storing a data associated with a material during manufacturing, wherein a PDA may be used for collecting and transmitting said data [0287].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cove to include that the programmable device is a PDA, as disclosed in Cove, because it would advantageously increase the versatility of the system by employing it in the area where wire communication is not available, thereby bring more revenue.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649 before April 13, 2005, and (571) 272-6801 after that date.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist before April 13, 2005, whose telephone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308-2702 before April 13, 2005, and (571) 272-6812 after that date.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington D.C. 20231**

or faxed to:

**(703) 872-9306** [Official communications; including After Final  
communications labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Igor Borissov  
Patent Examiner  
Art Unit 3629



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02/28/2005